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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:
Christoph T. Corvin
Serial No.: 09/747,040
Filed: December 22, 2000
For: MEDICAL DIAGNOSTIC SYSTEM
ACQUISITION AND FINANCING
METHOD AND APPARATUS

§ Group Art Unit: 3624
§ Examiner: Felton, Daniel S.
§ Atty. Docket: GEMS:0123/YOD/SWA
§ 15-EC-5764

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
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| CERTIFICATE OF MAILING 37 C.F.R. 1.8 | |
| I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, Mail Stop AF, P.O. Box 1450, Alexandria, VA 22313-1450, on the date below: | |
| July 13, 2004 Date |  Lynda Howell |

NOTICE OF APPEAL UNDER 37 C.F.R. § 1.191 FROM THE DECISION OF THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant hereby appeals to the Board of Appeals and Interferences from the final decision, dated February 13, 2004, of the Examiner finally rejecting claims 1-9, 11-19, 21-37, 39-43 and 45-48 of the above-referenced application.

The Commissioner is authorized to charge the requisite filing fee of \$330.00 (Notice of Appeal), and any additional fees which may be required, to Deposit Account No. 07-0845; Order No. 15-EC-5764/YOD/SWA (GEMS:0123).

No Extension of Time or Associated Fees Due

Although Applicant acknowledges that it is currently five months after the Final Office Action mailed February 13, 2004, the Applicant stresses that no time extensions are due in relation to this Notice of Appeal. Specifically, the Manual of Patent Examining Procedure states:

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(A) All final rejections setting a 3-month shortened statutory period (SSP) for reply should contain one of form paragraphs 7.39, 7.40, 7.40.01, 7.41, 7.41.03, or 7.42.09 advising applicant that if the reply is filed within 2 months of the date of the final Office action, *the shortened statutory period will expire at 3 months from the date of the final rejection or on the date the advisory action is mailed, whichever is later.*

M.P.E.P. § 706.07(f) (A) (*emphasis added*); see also M.P.E.P. § 706.07(f) (D) & (F). In this case, the Applicant filed the Response to Final Office Action on April 13, 2004, which was clearly *within 2 months* of the Final Office Action mailed February 13, 2004. At this time, it is five months after the Final Office Action and the Examiner has not mailed an Advisory Action, a Notice of Allowance, or any other Action. Accordingly, if the Patent Office mails a Notice of Allowance, then no extension of time will be necessary. Alternatively, if the Patent Office mails an Advisory Action indicating that the application is not in condition for allowance, then the shortened statutory period *must expire on the mailing date* of such an Advisory Action. Based on the latter scenario, the shortened statutory period has not yet expired for the present case, because the Patent Office has not yet mailed an Advisory Action. For this reason, the Applicant stresses that no extension fees are due in either scenario.

In accordance with 37 C.F.R. § 1.136, Applicant hereby provides a general authorization to treat this and any future reply *requiring* an extension of time as incorporating a request therefor. Therefore, if a one-month or two-month extension of time is deemed *necessary* in spite of the foregoing remarks, Applicant authorizes the Commissioner to charge the appropriate fee for such an extension of time to Deposit Account No. 07-0845; Order No. 15-EC-5764/YOD/SWA (GEMS:0123).

Respectfully submitted,



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Date: July 13, 2004